

1

Australian Health Ministers' Conference

4 & 5 August 2011

Agenda Item No.: 1.5
Originator: Commonwealth

**PROFESSIONAL INDEMNITY INSURANCE (PII) EXEMPTION FOR
INDEPENDENT PRIVATELY PRACTISING MIDWIVES (PPMs)**

RECOMMENDATIONS


That Ministers:

- 1. Consider issues relating to privately practising midwives and the exemption for professional indemnity insurance which is in effect until 30 June 2012, as requested in my letter of 9 May 2011;**
- 2. Agree a decision needs to be reached to allow clarity of advice to women before September 2011 when women falling pregnant will not know whether a PPM will be able to offer homebirth services under an exemption from PII; and**
- 3. Discuss their views on the PII exemption and any ramifications on a way forward.**

PURPOSE OF THE PAPER

Following on from the letter to States and Territories dated 9 May 2011 (Attachment 1) further background information is provided to facilitate discussion with a view to reaching a consensus decision on the PII exemption for PPMs.

SUMMARY OF ISSUES FOR DISCUSSION



The National Maternity Service Plan (the Plan) has been agreed to by all state and territory jurisdictions with an aim of enhancing choice for women in birthing services. The actions in the first year of the Plan include the development of consistent privileging for PPMs to facilitate their access to public health facilities. PPMs who provide birthing services within public facilities in a collaborative arrangement are covered by an insurance policy under Medical Insurance Group of Australia (MIGA). The Plan also encourages midwifery led models of care with an undertaking by states and territories to increase access to public home birth services.

The safety and quality framework for privately practicing midwives attending home birth was recently endorsed by the NMBA. Additionally, the Australian College of Midwives (ACM)

has completed a Position Statement on Homebirth. This involved considerable consultation with stakeholders and with jurisdictions. The NMBA approved the Position Statement at their board meeting on 23 June 2011 and it will become part of the NMBA regulation standard for homebirth.

If an extension of the exemption is not continued, then PPMs who offer planned home birthing will be in breach of their national registration and there is a risk that these midwives may continue to practise outside of a regulatory framework. This situation is likely to cause considerable concern amongst women who wish to home birth and from PPMs who are currently able to offer this service without risking their registration.

BACKGROUND

Under the National Registration and Accreditation Scheme (NRAS), the Health Practitioner Regulation National Law (the National Law) requires that PII arrangements are in place in relation to all practitioners' practice of their profession. PPMs were unable to comply with this condition as an insurance product which covered the intrapartum period has not been available since 2002. Changes were made to National Law to give PPMs an exemption of PII until June 2012.

This arrangement is due to cease on 30 June 2012, and so beyond that date, PPMs who continue to participate in homebirths would be in breach of their registration requirements.

Since 2010, MIGA has provided a policy to 'eligible' PPMs which is underwritten by the Commonwealth. This policy provides cover for pre and post natal care for PPMs provided certain conditions are met.



In 2010, after concerns were expressed by the South Australian Health Minister at the Australian Health Workforce Ministerial Council, the Safety and Quality Framework for Homebirth for Privately Practicing Midwives was endorsed by the NMBA. Additionally, the HPPPC requested the ACM develop a Homebirth Position Statement and the final document was due for presentation at the 30 June 2011 AHMAC Meeting.

On 12 November 2010, the Maternity Services Plan was agreed to by Commonwealth and State and Territory Health Ministers. The Plan has recently been released and includes the agreed goals for increasing access for Australian women and their family members to local maternity care by expanding the range of models of care.

As at 6 July 2011, only one response has been received in respect of Minister Roxon's letter of 9 May 2011. The response dated 21 June 2011 is from the Victorian Minister for Health recommending that the exemption be extended to enable the collection of sufficient data on the clinical safety of homebirths.

RESULTS OF CONSULTATIONS WITH JURISDICTIONS/ IMPLICATIONS FOR OTHER MINISTERIAL COUNCILS

The Australian Capital Territory (ACT) jurisdiction put forward on behalf of HPPPC an agenda item at AHMAC on 30 June 2011 noting progress on the development of the Position Statement on home birth. Subsequently, it is noted that the ACM Position Statement has been finalised and that the NMBA has endorsed the Position Statement to become part of regulation standards for midwives.

REGULATION IMPACT ASSESSMENT

A RIS has not been prepared as at this stage it is not applicable.

ATTACHMENT

Attachment 1 Copy of a letter sent by Minister Roxon to all State and Territory Health Ministers dated 9 May 2011 - sample only.



THE HON NICOLA ROXON MP
MINISTER FOR HEALTH AND AGEING

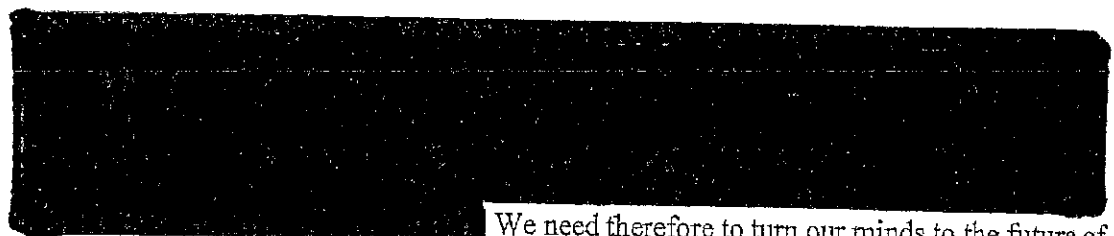
COPY

The Hon Geoff Wilson MP
Minister for Health
GPO Box 48
BRISBANE QLD 4000

Dear Minister *Geoff*

I am writing to request your consideration of issues relating to privately practising midwives and the exemption for professional indemnity insurance (PII) which is in effect until 30 June 2012.

As you are aware, as part of the requirement for the National Registration and Accreditation Scheme (NRAS) for health practitioners, all practitioners are required to hold PII. In the absence of a PII product being available for intrapartum care in a homebirth context, prior to the commencement of the national registration scheme in 2010, Health Ministers agreed to a two year exemption for privately practising midwives attending homebirths to hold PII. Essentially this was to allow time for data to be collected on the safety of homebirths and to enable a private insurer to develop an appropriate insurance product.



We need therefore to turn our minds to the future of the exemption, and the consequences of allowing the exemption to lapse. There is a minimum lead-in time of at least six months for process issues relating to the enactment of any changes to the current regulations under the NRAS. We will therefore need to take a decision on this matter well before the end of the calendar year and I intend to list this issue for discussion at the next Australian Health Ministers' Conference (AHMC) in June 2011. I expect that there will be heightened interest from stakeholders in this issue from September 2011 onwards when women falling pregnant will be uncertain about whether a currently registered midwife will be able to provide homebirth services after 30 June 2012.

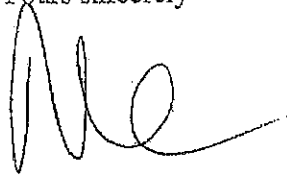
There are ramifications for all jurisdictions of the exemption lapsing. From 1 July 2012, an estimated 200 privately practising midwives who attend a planned homebirth would be unable to comply with the national registration standards endorsed by Health Ministers and their registration would lapse. There is a significant risk, therefore, that in these circumstances, private homebirths would continue with the services provided by an unregistered/unregulated workforce. That is, this workforce (who could no longer call themselves midwives) would not be compelled to comply with clinical guidelines set by the Australian College of Midwives or the Safety and Quality Framework recently endorsed by the Nursing and Midwifery Board of Australia, or to comply with state and territory reporting requirements (as they refer to midwives). This will have implications for how jurisdictions will ensure the ongoing protection of the public in terms of the safety and quality of homebirths.

The actions under the Maternity Services Plan agreed to by Health Ministers are also relevant here. While the Plan does not have a specific focus on private homebirths it nonetheless requires jurisdictions to investigate options for the provision of publicly funded homebirth care. The Plan also envisages that all Australian governments will facilitate increased access to midwifery-managed models of care for normal risk women e.g. midwifery group practice or birthing centres, while maintaining support for choice of, and access to, medically managed models of care.

As part of the discussion at the upcoming AHMC it would be worthwhile discussing conditions under which an extension of the exemption could be considered. These could include greater compliance measures with the Nursing and Midwifery Board of Australia's Safety and Quality Framework and commissioned work to collect national perinatal data on private home births.

I look forward to progressing these important discussions with you at our upcoming meeting.

Yours sincerely



NICOLA ROXON

09 MAY 2011



Minister for Health

RECEIVED
28 JUN 2011
MINISTER FOR HEALTH & AGEING

Hon David Davis MP

50 Lonsdale Street
GPO Box 4541
Melbourne Victoria 3001
DX 210311
www.health.vic.gov.au
Telephone: (03) 9096 8361
Facsimile: (03) 9096 3373

Min to Min

MO Int: JS, DLO

e2296258

(2) HW-NA

HW-Ind

Nurse

The Hon Nicola Roxon MP
Minister for Health and Ageing
Parliament House
Canberra ACT 2600

Dear Minister

Minister for Health and Ageing	
28 JUN 2011	
Reply by	Action
<input type="checkbox"/> Minister	<input type="checkbox"/> Acknowledge
<input type="checkbox"/> Ch of Staff	<input type="checkbox"/> Response
<input type="checkbox"/> Adviser	<input type="checkbox"/> Phone Call
<input type="checkbox"/> Sec for Min	<input type="checkbox"/> Informz
<input checked="" type="checkbox"/> Department	<input type="checkbox"/> Urgent
Other	<input type="checkbox"/> Priority
<input type="checkbox"/> Invite	
<input type="checkbox"/> Campaign	
<input type="checkbox"/> Constituent	
<input type="checkbox"/> Background	
Information Required	
Comments:	

Thank you for your letter from 9 May 2011 regarding the exemption for professional indemnity insurance for privately practising midwives providing planned homebirth care which is in effect until 30 June 2012 and the consequences of this exemption lapsing. I share your concern about the implications for how jurisdictions will ensure the safety and quality of private midwifery homebirth care if a suitable insurance product is not available and the exemption is allowed to lapse.

To allow for the collection of sufficient data on the clinical safety of homebirths to support actuarial forecasts, I recommend that the exemption be extended. To ensure that appropriate data is collected, I recommend that further information is sought from professional indemnity insurers. I propose that the Australian Health Practitioners Regulation Agency (AHPRA) be responsible for leading this work.

Currently, to be exempt from having professional indemnity insurance, private practising midwives must comply with any requirements set out in the codes or guidelines of the Nursing and Midwifery Board of Australia (NMBA). Victoria has recommended that the NMBA formally adopt the Safety and Quality Framework for privately practising midwives attending homebirths in a code or guideline to ensure that it is a legal requirement as stated under section 39 of the *Health Practitioner Regulation National Law 2009*. Following this, the framework could be used as a mechanism for collecting and reporting on the clinical safety of homebirths.

Historically, homebirth has not been an option available to women in the Victorian public health system. In accordance with action 1.2.3 of the National Maternity Services Plan, a publicly funded homebirth pilot project has been established in two metropolitan hospitals. An independent evaluation of the pilot project is currently being undertaken and is expected to be completed by April 2012. The outcomes of the evaluation will determine the viability of expanding this service to other public maternity services throughout Victoria.

M11019377

FOR YOUR INFORMATION

Please file and enter the departmental file number on the MIRACLS 2 system.

